

**Resolution of the Board of Water Commissioners  
Regarding the Director's Final Compliance Report  
March 6, 2013**

WHEREAS The Director's Final Compliance report is due on March 15, 2013, and as preparations are made for that report, we note with increased attention the seemingly foregone conclusion that an Emergency Manager ("EM") / Emergency Financial Manager ("EFM") will be appointed for the City of Detroit as early as March 13, 2013.; and

WHEREAS The EM would be initially appointed under PA 72, but would convert to an EFM under a new law that takes effect on March 27, 2013; and

WHEREAS The interplay between the Emergency Manager laws and the various Interim Orders of the Federal Court is an ongoing concern and creates various operational questions for DWSD including:

- a. Whether the City Council will continue to have a role in approving contracts under the DWSD procurement policy in light of the fact that the EFM can exercise legislative functions under state law?
- b. Whether the City Council will continue to have a role in approving Detroit Retail Rates?
- c. Whether the Mayor will continue to appoint members to the BOWC in light of the language in the new law that the EFM can appoint and remove members to all Boards of the City?
- d. Whether the Court's orders regarding the appointment of the COO/CCO and the compensation and composition of the BOWC will be subject to removal as envisioned within the EFM statute?
- e. Whether the DWSD Director may be removed solely by the EFM as permitted under the act as compared to the removal procedure outlined within the November 4, 2011 court order?
- f. Whether the Root Cause Committee will continue to exist as currently configured in light of the ability of the EFM to assume the operational duties of the Mayor and the City Council? Will the Ad Hoc RCC continue to have a role in approving certain amendments to the Procurement Policy.
- g. Whether the DWSD is required to remain a department of the City of Detroit as envisioned by the November 4, 2011 Court order or whether it is subject to sale by the EFM with approval of the State Treasurer as detailed within the new EFM law?

- h. Whether DWSD, the BOWC, the customers, and the RCC are free to explore an alternate form of governance and/or independence of DWSD from the City of Detroit in light of the continuing negative impact of the City of Detroit's financial situation upon DWSD's operations?
- i. Whether the Court should be requested to provide any additional guidance on the treatment of DWSD in the unlikely event of a bankruptcy filing by the EFM on behalf of the City of Detroit?

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**RESOLVED** In light of these numerous questions, the Board of Water Commissioners hereby requests that the Director request an immediate meeting of the Root Cause Committee to discuss the structural issues and the items listed above.

**RESOLVED** That if the Root Cause Committee does not act, the Board shall meet on March 13, 2013 and consider a plan on structural issues and the items listed above.

**RESOLVED** That the Director's final compliance report should address the Board's concerns as outlined above.

**RESOLVED** That in light of the concerns cited above and the unknown interplay between PA 72, the new Emergency Manager Law that takes effect on March 27, 2013 and the Court's interim orders, the BOWC requests that the Chairman communicate with the Special Master to formally request an extension to the deadline for filing the final Director's Compliance Report with the Court.